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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/042,910	01/09/2002	Raymond Fallon	18133-095	4528
<div>7590 06/25/2009</div> <div>Marianne M. Downing, Esq. Mintz, Levin, Cohn, Ferris, Glovsky and Popco, P.C. One Financial Center Boston, MA 02111</div>				
EXAMINER				
TRAN, MYLINH T				
ART UNIT		PAPER NUMBER		
2179				
MAIL DATE		DELIVERY MODE		
06/25/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/042,910

Applicant(s)

FALLON ET AL.

Examiner

MYLINH TRAN

Art Unit

2179

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 4-7, 10-14, 16-29, 31, 32, 34, 35 and 37-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-7, 10-14, 16-29, 31, 32, 34, 35 and 37-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsman's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Applicant's Amendment filed 04/07/09 has been entered and carefully considered. Claims 1, 17, 26, 31, 35 have been amended. However, the limitation of the amended claims have not been found to be patentable over prior art of record therefore, claims 1-2, 4-7, 10-14, 16-29 and 31-32, 34-35, and 37-43 are rejected under the same ground of rejection as set forth in the office action mailed 10/07/08.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1, 2, 4-7, 10-14, 16 and 39-43 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims ("user interface module" and "worker module") lack the necessary physical articles or objects to constitute a machine or a manufacture within the meaning of 101. As described in the specification, the module is defined as "the functions of one or more of the modules within the software application 70 can be running on a first processor 12 while the remaining modules are running on one or more additional processors (not shown)" (paragraph 0072); and "Referring again to FIG. 2, the worker module 100 (which can be a service or a process) runs continually on the user's computer system 10" (paragraph 0081); and "In addition, at least some embodiments of the invention described herein can be implemented using one or more computer-readable and/or computer-usable

program modules, which modules can be embodied in tangible media (e.g., disks, CD-ROMs, DVDs (digital video disks), and hard drives) and/or in signals propagated on a carrier wave (e.g., such as by downloading from a computer network such as the Internet)." (paragraph 0110).

Claims 31-32, 34-35 and 37-38 are rejected under 35 U.S.C 101 because the claimed invention is directed to non-statutory subject matter.

In specification [0110], the applicant recites "As those skilled in the art will recognize, the invention described herein can be modified to accommodate and/or comply with any one or more of the above-described technologies and standards. In addition, variations, modifications, and other implementations of what is described herein can occur to those of ordinary skill in the art without departing from the spirit and the scope of the invention as claimed. Further, **virtually any aspect of the embodiments of the invention described herein can be implemented using software, hardware, or in a combination of hardware and software.** In addition, at least some embodiments of the invention described herein can be implemented using one or more computer-readable and/or computer-usable program modules, which modules can be embodied in tangible media (e.g., disks, CD-ROMs, DVDs (digital video disks), and hard drives) and/or in signals propagated on a carrier wave (e.g., such as by downloading from a computer network such as the Internet)."

These sections have provided evidence that the applicant intends to claim all components, devices, servers, clients, or modules may be **implemented in software**, which is directed to non-statutory subject matter.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 4-7, 10-14, 16-29 and 31-32, 34-35, and 37-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuiawa et al. [US. 2003/0033550].

As to claims 1, 17, 26, 31 and 35, Kuiawa et al. disclose a computer implemented method and corresponding an apparatus for providing information about the occurrence of at least one predetermined event associated with an uninterruptible power supply in operable communication with the system comprising the steps/means for a worker module configure to determine whether the predetermined event (first condition) has occurred at the single UPS (page 4, 0034, Kuiawa cites "if the application program detects abnormalities in one or more UPS devices, the application program causes the operating system to generate pertinent GUIs in the manner as describes with

respect to FIGS. 3-8 to alert the user of the abnormalities.”); a user interface (figure 6) module responsive to the determination of the worker module, the user interface module configured to generate a user interface providing information relating to the predetermined event (figure 6, pages 2-3, 0025). Kuiawa et al. also teach the user interface comprising at least one of a graphical portion and an alphanumeric portion (figure 6, 604 (“Warning symbol” is a graphical portion), (634 is an alphanumeric)), the user interface concurrently providing multiple pieces of information (Kuiawa discloses plural pieces of information such as “warning: descriptions blackout” (634), “recommendations: check battery” (634)) of area 604) regarding multiple characteristics (multiple characteristics are disclosed at section (604), figure 6 such as “warning: description blackout”, “recommendations: check battery” and “further recommendations: www.apcc.com”) of at least one of operation of the single UPS and connectivity of the system with the single UPS (the UPS is highlighted one is selected among multiple UPS devices); wherein the user interface has a size substantially similar to a size of a toolbar (the graphical user interface window 600 of figure 6);

Kuiawa et al. teach the multiple characteristics being at least two of battery capacity, time to shutdown, and on-line/on-battery status (page 4, 0034).

Kuiawa et al. also teach the user interface module generating the user interface and cause the user interface to be displayed automatically upon occurrence of the predetermined event (page 4, 0034).

Kuiawa also teaches the second GUI (portion 604) providing historical poser event information of multiple UPS; the first (portion 602) and second (portion 604) together occupy substantially an entire display window.

However, Kuiawa fails to clearly teach the feature of "the user interface module being further configured to generate a second user interface portion providing historical poser event information associated with the single UPS.

However, the second GUI provides event information of single UPS was well known in the computer art.

It would have been obvious to one of skill in the art, at the time the invention was made, to combine the well known implementation with the teaching of Kuiawa.

Motivation of the combination would have been to enhance the GUI appearance.

As to claim 2, Kuiawa et al. also disclose the UPS having at least one operating parameter and wherein the information relating to the predetermined event comprises information relating to the at least one operating parameter of the UPS (Kuiawa cites "The UPS devices monitoring application program communicates with each UPS device managed to gather various information such as voltage thresholds, power failure, battery threshold, network communication status" on page 4, 0034).

As to claim 4, Kuiawa et al. also teach the event having a duration and wherein the user interface module generates a user interface for at least the duration of the predetermined event (0029).

As to claims 5 and 18, Kuiawa et al. show the predetermined event being an event relating to UPS communication status (0025, connecting).

As to claim 6, Kuiawa et al. also show the predetermined event being an event relating to UPS battery status (0031).

As to claim 7, Kuiawa et al. demonstrate the user interface comprising at least one of a UPS status monitor, a system tray icon, an event notifier, and a balloon notifier (page 1, 0004).

As to claims 10 and 24, Kuiawa et al. also provide a memory storing information relating to at least one of the predetermined event and the operating parameter of the UPS (0020).

As to claims 11 and 23, Kuiawa et al. disclose the user interface further comprising a control that enables a user to perform a function based on the information in the user interface (0028-0030).

As to claims 12, 22 and 37, Kuiawa et al. also disclose the worker module monitoring the operating parameter of the UPS and the user interface module dynamically updates at least a portion of the user interface to reflect a change in the operating parameter (0029).

As to claim 13, Kuiawa et al. show the worker modules receiving information from the UPS relating to an operating parameter of the UPS (0017-0019).

As to claim 14, Kuiawa et al. also show the user interface module displaying a user interface providing context-sensitive information relating to an operating parameter of the UPS (battery threshold, figure 6).

As to claim 16, Kuiawa et al. also teach the user interface module generating the user interface upon receipt of a command (0022 and 0034).

As to claims 19 and 38, Kuiawa et al. provide ceasing to display the indicator upon occurrence of a second condition (0026, Kuiawa cites "the status window will list the power failure as the cause of the warning state").

As to claim 20, Kuiawa et al. also provide the second condition comprising a condition selected from the group consisting of receiving a second command, cessation of the first condition, and change in the first condition (page 3, 0026, Kuiawa et al. cite "When the listed UPS device is highlighted, the status window displays a chronology of events that caused the listed UPS device to be diagnosed in a certain state....if a listed UPS device has been subjected to a power failure, the UPS device would be placed in a warning state due to the power failure. And the status window will list the power failure as the cause of the warning state").

As to claim 21, Kuiawa et al. also provide displaying at least one indicator conveying only information related to the first condition (0025-0026).

As to claim 25, Kuiawa et al. demonstrate displaying the stored information (figure 6).

As to claim 27, Kuiawa et al. disclose determining whether the event has occurred by alerting the user when it occurs. Kuiawa et al. fail to clearly teach an alarm to the user during the duration of the event to notify the user that the event has occurred. However, Official notice is taken that implementation of notifying the user that the event has occurred by the alarm to the user during the duration of the event was well known in the computer art. It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to combine the well known implementation of notifying the user with Kuiawa's teaching of pertinent GUIs to alert the user of an abnormalities. Motivation of the combination would have been to notice the user by a warning signal.

As to claim 28, Kuiawa et al. fail to teach displaying a control in the user interface that enables the alarm to be muted. However, Official Notice is taken that implementations of the alarm to be muted are well known in the art. In light of the rejection set forth above, it would have been obvious to one of skill in the art, at the time the invention was made, to combine the well know implementations of the alarm of Kuiawa. Motivation of the combine is for the user to control the alarm if she/he does not want it to notify the user.

As to claim 29, Kuiawa et al. shows ceasing to display the user interface when the event is no longer occurring (0028-0029).

Claim 32, Kuiawa et al. teach means for controlling a function related to the information that is displayed (figure 6).

As to claim 34, Kuiawa et al. discloses means for determining the duration of the predetermined event (0028-0029).

As to claim 39, Kuiawa et al. disclose the user interface being configured to be visually distinct from adjoining portions of a display (figure 6).

As to claim 40, Kuiawa et al. teach the multiple pieces of information relate to at least two ob battery capacity, time to shutdown, and on-line/on-battery status (page 4, 0034).

As to claims 41-43, Kuiawa et al. teach the user interface having a width and a height substantially similar to a width and a height of the toolbar; the user interface including first and second selectable portions; and the user interface module being configured to cause the user interface to be displayed on a display and to be size and disposed on the display to substantially unobtrusive to a user of the display (figure 6, pages 3-4, 0033-0034).

Response to Arguments

The applicant has argued that Kuiawa fails to teach the feature of "the user interface module being further configured to generated a second user interface portion providing historical poser event information associated with the single UPS neither the step of "the first and second user interface portions together occupy substantially an entire display window". However, as disclosed in figure 6, Kuiawa teaches the second GUI (portion 604) providing event information of

multiple UPS; the first (portion 602) and second (portion 604) together occupy substantially an entire display window.

Applicant has argued that Kuiuawa does not teach or suggest the feature of "a user module generates a user interface automatically upon occurrence of a predetermined event". However, applicant's attention is directed to page 4, 0034 cited "If the application program detects abnormalities in one or more UPS devices, the application program causes the operating system to generate pertinent GUIs in the manner as described with respect to FIGS 3-8 to alert the user of the abnormalities." It is clear that the system automatically generates the pertinent GUI when it detects abnormalities in the UPS device. The system generates the GUI without a user's action.

Applicant has argued that Kuiuawa does not teach or suggest the recited automatically causing to be displayed, upon the occurrence of the predetermined event. However, the fact that a person is involved in the disclosure is unconvincing. It is well settled that it is not "invention" to broadly provide a mechanical or automatic means to replace manual activity which has accomplished the same result. In re Rundell, 18 CCPA 1290, 48 F.2d 958, 9 USPQ 220.

Automating to replace manual activity to accomplish the same result carries not patentable weight. See In re Venner, 120 USPQ 192.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mylinh Tran. The examiner can normally be reached on Mon - Thu from 7:00AM to 3:00PM at 571-272-4141.

The fax phone numbers for the organization where this application or proceeding is assigned are as follows:

571-273-8300

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mylinh Tran
Art Unit 2179

/Weilun Lo/
Supervisory Patent Examiner, Art Unit 2179